

Chapter 85: Vocational, Annual Operating Budget (Career and Technical Education)

Rule 85.3 Hearings on Plans. When a plan submitted by a local educational agency is not approved by the Office of Career and Technical Education, the Office of Career and Technical Education shall notify the local educational agency of the deficiencies in the plan and allow thirty (30) days from the date of the notification letter to correct those deficiencies. However, upon good cause shown, the State Board of Education may extend this thirty (30) day period by written notification.

If at the end of thirty (30) days or the end of the extended period, whichever is applicable, the local educational agency has not corrected the deficiencies, the plan will be denied. The Associate State Superintendent for the Office of Career and Technical Education shall notify the local educational agency of this denial by certified mail and include in that letter the following:

1. The reasons for denial;
2. The right to request a hearing at which time the local educational agency is entitled to:
 - a. The right to be represented by legal counsel at its own expense;
 - b. The right to cross-examine witnesses from the Office of Career and Technical Education; and
 - c. The right to call witnesses in its own behalf (who must appear by agreement with the local educational agency because the State Board has no subpoena power) and to introduce documentary evidence in its own behalf;
3. The names of the witnesses to be called at the hearing by the Office of Career and Technical Education and the nature of their testimony;
4. Copies of any documentary evidence that will be introduced at the hearing by the Office of Career and Technical Education. The local educational agency shall have ten (10) days from receipt of the notification letter to submit a written request for a hearing which shall be scheduled no less than five (5) days nor more than thirty (30) days from the date the request for hearing is received by the Office of Career and Technical Education. The Associate State Superintendent will notify the local educational agency, in writing, of the date, time, and place of the hearing. A court reporter shall be selected by the Office of Career and Technical Education to record all proceedings, and all witnesses shall be placed under oath by such court reporter.

The State Board shall designate an impartial hearing officer to conduct hearings on local plans. The hearing officer, after hearing all the evidence, shall present a written recommendation and a finding of facts to the State Board concerning the plan within fourteen (14) days after the conclusion of the hearing. Upon receipt of the transcript of the hearing, the State Board shall have thirty (30) days within which to make a determination upon the transcript and the recommendations and findings of facts of the hearing officer and to notify the local educational agency by certified mail of its decision. If any local educational agency is dissatisfied with the final action of the State Board, with respect to the approval of the plan, the local educational agency may within sixty (60) days after such final action or notice thereof, whichever is later, file with the U. S. Fifth Circuit Court of Appeals a petition for review of that action. A copy of the

petition shall be forthwith transmitted by the clerk of the court to the State Board, and the State Board thereupon shall file in the court the record of the proceedings on which the State Board based its action as provided in Title 28 U.S. Code, Section 2112.

The findings of fact by the State Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand a case to the State Board to take further evidence, and the State Board may thereupon make new or modified findings of fact and may modify its previous action and shall certify to the court the record of the further proceedings. The Fifth Circuit Court of Appeals has jurisdiction to affirm the action of the State Board or to set it aside in whole or in part. The judgment of the Court shall be subject to review by the United States Supreme Court upon certiorari or certification as provided in Title 28 United States Code Section 1254.

Source: *Public Law 98-524, Section 504 (C) (1) (Revised 11/2011)*